

## REMARKS

An Office Action was mailed February 13, 2007, in the present case. Claim 30 is rejected as indefinite. Claims 1-2, 4-19, 23-25 and 30-33 are rejected for obviousness-type double patenting over claims 1-20 of U.S. Patent 6,780,442. Claims 23-25 are rejected as anticipated by *Ariga* (U.S. Patent No. 5,814,494). Claims 23-25 are rejected as anticipated by *Ariga* (U.S. Patent No. 5,773,262). Claims 23-25 are rejected as anticipated by *Frangi* (U.S. Patent No. 5,484,594). Reconsideration and withdrawal of the objections and rejections are respectfully requested in view of the above amendments and the following remarks.

A. § 112, 2<sup>nd</sup> Paragraph Rejection of Claim 30 is Addressed.

Claim 30 is rejected for use of the term "substantially". The term has been deleted by amendment above. Accordingly, withdrawal of the §112 rejection is thus respectfully requested.

B. Obviousness-Type Double-Patenting Rejection of Claims 1-2, 4-19, 23-25 and 30-33 over U.S. Patent No. 6,780,442 is Addressed

Enclosed is a Terminal Disclaimer relative to U.S. Patent No. 6,780,442, signed by the attorney of record. Withdrawal of the obviousness-type double patenting of claims 1, 2, 4-19, 23-25 and 30-33 over U.S. Pat. No. 6,780,442 is respectfully requested.

C. Anticipation Rejection of Claims 23-25 over *Ariga* ('494) in view is Addressed

Claims 23-25 stand rejected as anticipated by *Ariga*. (U.S. Patent No. 5,814,494). The rejection is respectfully traversed. While *Ariga* '494 does teach the preparation of a proanthocyanidin extract, it nowhere teaches or suggests the "decreased levels of anthocyanins as compared to levels of anthocyanins in the original plant material" as recited in independent claim 23. Accordingly, claim 23 is patentably distinguishable over *Ariga* '494, as are claims 24 and 25 which depend therefrom. Withdrawal of the § 102 rejection of claims 23-25 thus proper and respectfully requested.

D. Anticipation Rejection of Claims 23-25 over *Ariga* ('262) in view is Addressed

Claims 23-25 stand rejected as anticipated by *Ariga*. (U.S. Patent No. 5,773,262). The rejection is respectfully traversed. While *Ariga* '262 does teach the preparation of a proanthocyanidin extract, it nowhere teaches or suggests the

“decreased levels of anthocyanins as compared to levels of anthocyanins in the original plant material” as recited in independent claim 23. Accordingly, claim 23 is patentably distinguishable over *Ariga* '262, as are claims 24 and 25 which depend therefrom. Withdrawal of the § 102 rejection of claims 23-25 thus proper and respectfully requested.

E. Anticipation Rejection of Claims 23-25 over *Frangi* in view is Addressed

Claims 23-25 stand rejected as anticipated by *Frangi*. The rejection is respectfully traversed. While *Frangi* does teach the preparation of a proanthocyanidin extract, it nowhere teaches or suggests the “decreased levels of anthocyanins as compared to levels of anthocyanins in the original plant material” as recited in independent claim 23. Accordingly, claim 23 is patentably distinguishable over *Frangi*, as are claims 24 and 25 which depend therefrom. Withdrawal of the § 102 rejection of claims 23-25 thus proper and respectfully requested.

F. Conclusion

The Examiner is asked to kindly telephone the undersigned, should any issues remain or should the Examiner believe a call would expedite prosecution.

Respectfully submitted,



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